



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: application of:

Robert-Jan Enzerink, et al.

Appl. No.: 09/461,829

Filed: December 15, 1999;

CPA filed January 17, 2002

For: **Graft Material Convenience Package**

Art Unit: 3738

Examiner: Pelllegri, B.

Atty. Docket: DEP-0351

1-14  
1-29-02  
#13 / Response  
RECEIVED  
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**PRELIMINARY REMARKS**

The Assistant Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

These remarks are submitted responsive to the Final Office Action dated July 17, 2001, issued in the above-identified parent application along with a petition for a three-month extension of time, making a response due on or before January 17, 2002.

Entry of the following amendment and consideration of the appended remarks is respectfully requested.

**REMARKS**

Claims 1-15, and 35-39, are pending in the present application. No new matter has been added.

*I. At page 2 of the Final Office Action, the Examiner has rejected claims 1-4, 7-12, 14, and 35-38 under 35 U.S.C. §102(b) as anticipated by, or in the alternative under 35 USC §103(a) as obvious over McGuire '669.*

The Examiner states that McGuire discloses that allografts including bone plugs and replacement ligaments sutured thereto are used to repair ligaments (col. 6, lines 44-47), and that the allografts are preserved by freezing. The Examiner further states that it is well known in the art to package the graft in sterile packaging. The Examiner states the McGuire also discloses that tendons such as the semitendinosis and gracillis are preferable because of the shelf-life (col. 6, lines 44-47),

# **CONTINUED PROSECUTION APPLICATION (CPA)** **REQUEST TRANSMITTAL (Large Entity)**

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional Applications Under 37 CFR 1.53(d))

Docket No.

DEP-0351

☐ **DUPLICATE** (Check box if applicable)

JAN 17 2002

First Named Inventor

Examiner

Group/Art Unit

Robert-Jan Enzerink, et. al.

Pellegrino, B.

3738

Address to:

Assistant Commissioner for Patents

Box CPA

Washington, D.C. 20231

This is a request for filing a ☒ continuation, or ☐ divisional application under 37 CFR 1.53(d), (continued prosecution application (CPA)) of prior application number 09/461,829 filed on December 15, 1999 and entitled:

Graft Material Convenience Package

1. ☐ Enter the unentered amendment previously filed on \_\_\_\_\_ under 37 CFR 1.116 in the prior nonprovisional application.

2. ☒ A preliminary amendment is enclosed.

3. ☐ This application is being filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).

a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:

01/24/2002 TBESHAH1 00000053 09461829

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740.00 OP

b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.

4. ☐ A new power of attorney or authorization of agent is enclosed.

5. ☐ An Information Disclosure Statement (IDS) is enclosed:

a. ☐ PTO-1449

b. ☐ Copies of IDS Citations

6. ☒ The fee for this application is calculated as follows:

## **CLAIMS AS FILED**

For	#Filed	#Allowed	#Extra	Rate	Fee
Total Claims	20	- 20 =	0	x \$18.00	\$0.00
Indep. Claims	3	- 3 =	0	x \$84.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
BASIC FEE					\$740.00
TOTAL FILING FEE					\$740.00

**CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL (Large Entity)**  
**(Only for Continuation or Divisional Applications Under 37 CFR 1.53(d))**

7. ☐ The Commissioner is hereby authorized to credit overpayments or charge the following fees to  
Deposit Account No.

- ☐ fees required under 37 C.F.R. 1.16.
- ☐ fees required under 37 C.F.R. 1.17.
- ☐ fees required under 37 C.F.R. 1.18.

8. ☐ A check in the amount of \_\_\_\_\_ is enclosed.

9. ☒ Also enclosed:

**Credit Card Payment Form authorizing payment of filing fees**

10. ☒ The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address  
is provided below:

**CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL (Large Entity)**  
**(Only for Continuation or Divisional Applications Under 37 CFR 1.53(d))**

**NOTES**

**Submit an original, and a duplicate for fee processing.**

**FILING QUALIFICATIONS:** The prior application must be a nonprovisional application that is either: (1) complete as defined by 37 C.F.R. 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. A Notice will be placed on a patent issuing from a CPA, except for reissues and designs, to the effect that the patent issued on a CPA and is subject to the twenty-year patent term provisions of 35 USC 154(a)(2). Therefore, the prior application of a CPA may have been filed before, on or after June 8, 1995.

**C-I-P NOT PERMITTED:** A continuation-in-part application cannot be filed as a CPA under 37 C.F.R. 1.53(d), but must be filed under 37 C.F.R. 1.53(b).

**EXPRESS ABANDONMENT OF PRIOR APPLICATION:** The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 C.F.R. 1.53(b) must be used to file a continuation, divisional or continuation-in-part of an application that is not to be abandoned.

**ACCESS TO PRIOR APPLICATION:** The filing of this CPA will be construed to include a waiver of confidentiality by the Applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 C.F.R. 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or application in the file jacket.

**35 U.S.C. 120 STATEMENT:** In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 C.F.R. 1.78(a).

Dated: January 17, 2002

  
Signature

Susanne M. Hopkins, Esq.

Typed or printed name

33,247

Registration Number (if applicable)

- ☐ Inventor(s)  
☐ Assignee of complete interest  
☒ Attorney or agent of record

cc: